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Before the
Federal Communications Commission
 Washington, D.C. 20554

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JUN 19 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
 Petitions of ITFS 2020 and)
 Association of Federal Communications)
 Consulting Engineers for Postponement of)
 Initial Filing Window (July 3-10, 2000) for)
 Two-Way Multipoint Distribution Service)
 and Instructional Television Fixed Service)

To: The Chief, Mass Media Bureau

COMMENTS OF NEW WEST RESOURCES, INC.

1. By its *Amendment of Parts 21 and 74 to Enable Multipoint Distribution Service and Instructional Television Fixed Service Licensees to Engage in Fixed Two-Way Transmissions*, 13 FCC Rcd 19, 112 (1998), the Commission amended its rules to permit licensees in the Multipoint Distribution Service ("MDS") and Instructional Television Fixed Service ("ITFS") to provide high-speed two-way services. On reconsideration, the Commission further amended its technical rules with respect to such operations. *Report and Order on Reconsideration*, 14 FCC Rcd 12764, 16CR 1002 (1999). By "Public Notice" of March 23, 2000 (DA 00-66), the Commission announced the initial filing window establishing the period from July 3, 2000 through July 10, 2000 for the submission of two-way MDS and ITFS applications.

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2. By Public Notice of June 12, 2000, the Commission announced the filing by ITFS 2020, a limited liability company ("2020"), of an emergency petition requesting a nine-month postponement of the filing window. The Commission's Public Notice also listed a second such petition filed by The Association of Federal Communications Consulting Engineers ("AFCCE") requesting a 130-day postponement of the filing window. The Commission's Public Notice established a pleading cycle with respect to both petitions, allowing interested parties to and including June 19, 2000 to submit Comments. Accordingly, New West Resources, Inc. ("New West") hereby submits its "Comments" in support of a postponement of the Commission's July 3-10, 2000 filing window, which Comments are timely filed.

3. New West Resources, Inc. is the proposed transferee in a pending Application for Consent to Transfer Control of Multimedia Development Corporation, which in turn holds authorizations for eight (8) MMDS Basic Trading Areas, or "BTAs."¹ Accordingly, New West has standing to participate in this proceeding.

4. To stand the best chance of maximizing facilities within a BTA, and thereby render earlier, more effective and more competitive two-way service in a given BTA area, an applicant - in most cases -- needs to file at the earliest possible time, that is, during the first filing window. In some instances, failure to do so could result in a loss of protection or the ability to expand one's service area. Apparently the Commission's release of its April 27th Public Notice "Amend[ing] Methodology used for Calculation of Interference Protection and Data Submission for MDS and ITFS Station Applications for Two-Way Systems," has resulted in considerable delays in the start-up process for consulting engineering firms preparing engineering studies and

reports for inclusion in filing window applications.² Even though engineering software may not be the direct cause for a delay in obtaining final engineering studies, problems encountered by some attempting to coordinate their efforts with those of others to afford protection as required under the Commission's Rules, have no doubt bogged down the process which is still ongoing. Even at this juncture, parties still are attempting to obtain consents from incumbent licensees with respect to interference protection and to lease or swap channels to facilitate two-way system operations.

5. Even New West's legal counsel has been somewhat stymied in its ability to obtain copies of applications and annual reports from the Commission's public files which are necessary to ascertain the most up-to-date information with respect to how to contact some of the incumbent licensees within the BTAs with which it is concerned merely to make contact in an attempt to obtain consent(s) where required. This has resulted from the limited access to the Commission's reference room which is closed one day a week, coupled with its limitations on how many files can be requested in a single day by the same person or entity. As of the date of this submission, New West's own plans have been disrupted by a delay of ten days--thus far--in receipt of all of the engineering reports it requested from its consulting engineer. New West cannot help but believe that the difficulties it has experienced, the massive number of applications anticipated to be filed during the window, coupled with the workload imposed upon the engineering community, and the difficulties previously pointed out by 2020 and AFCCE, have complicated and delayed the frequency coordination and clearance processes, as well as the ability to prepare final applications for submission during the filing window. Accordingly, New

¹ The Application for Consent to Transfer Control has been assigned FCC File No. BTCMD-20000307. Also, the Commission already has authorized a transfer of control of Multimedia Development Corporation as the licensee of CARS Stations WLY-464, WLY-558, and WLY-514 (See FCC Report No. 3730).

West supports the petition of AFCCE requesting a 130-day postponement of the presently scheduled July 3-10, 2000, MDS/ITFS application filing window. The additional time should serve to allow prospective applicants added time to coordinate their plans and efforts with other licensees serving or proposing to serve the same or nearby markets. Further, such an extension should facilitate the coordination and application processes, while resulting in better-prepared applications.

Respectfully submitted,

NEW WEST RESOURCES, INC.

BY: 
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Its Counsel

Dated this 19th day of June, 2000.

² See Petition of AFCCE for Postponement of Filing Window.

DECLARATION

I, Robert L. Smith, hereby declare, under penalty of perjury under the laws of the United States of America, that:

1. I am consultant to New West Resources, Inc. in connection with its proposed acquisition of Multimedia Development Corporation.
2. The factual statements contained in the foregoing "Comments of New West Resources, Inc.," other than those of which official notice can be taken, are true and correct to the best of my information, knowledge and belief.

/s/ Robert L. Smith
ROBERT L. SMITH

Dated this _____ of June, 2000.

CERTIFICATE OF SERVICE

I, Arlene F. Lacki, a secretary at the law offices of Vorys, Sater, Seymour and Pease, LLP do hereby certify that copies of the foregoing "Comments of New West Resources, Inc." were served this 19th day of June, 2000, via United States mail, postage prepaid upon the following:

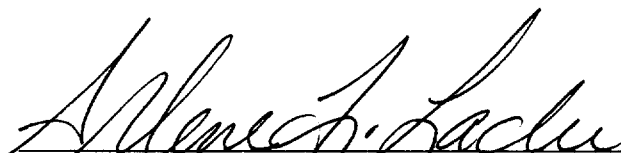
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